

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application. Claims 1-15 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth hereinbelow.

Claim for Priority

The Examiner has not recognized Applicant's claim for foreign priority. Applicant has perfected the claim by filing a certified copy with the International Bureau. Accordingly, the priority date of November 9, 1998 should be acknowledged in the next Office Action.

Acknowledgement of Information Disclosure Statement

The Examiner is respectfully requested to acknowledge the Information Disclosure Statement filed on May 9, 2001. An initialed copy of the PTO-1449 form should be sent to the undersigned at the earliest convenience of the Examiner.

Rejection Under 35 U.S.C. § 112

Claims 1, 2, 4 and 7 stand rejected under 35 U.S.C. § 112 as being indefinite. This rejection is respectfully traversed. By way of the present amendment, Applicant has removed the words which the Examiner feels are indefinite. Accordingly, this rejection is overcome.

Rejections Under 35 U.S.C. § 102 and 103

Claims 1-3, 5, 6 and 9 stand rejected under 35 U.S.C. § 102 as being anticipated by the National Aquarium in Baltimore (hereinafter "aquarium"). Claims 4, 7, 8 and 10-12 stand rejected under 35 U.S.C. § 103 as being obvious over aquarium. These rejections are respectfully traversed. Applicant submits that the Examiner has not properly established a date for this reference. Further, Applicant submits that the reference does not show all the features of the claimed invention, and that these would also not be obvious thereover.

Concerning the aquarium reference, Applicant submits that the Examiner has not properly established a date for this reference, which is prior to the priority date of the present application. This reference has been cited on the PTO-892 by the URL, or website address. No date is included for this reference. It is noted that the Examiner has referred to the fact that the aquarium was built in 1981 in the first line on page 2 of the action. It is also noted that the copy of the reference supplied includes a printing date of November 8, 2001. Copyright dates are given on a number of the pages of the brochure, which vary from 1997 to 2000.

Applicant submits first that the date that the aquarium was built is irrelevant, and does not establish an appropriate date for the reference. That is, even if the building was built, and the aquarium operated in 1981, there is no showing that the features relied upon by the Examiner were available at this date. It is common for museums and similar organizations to vary their exhibits over time, and accordingly, there is no guarantee that the arrangement relied upon by the Examiner was available in 1981. If the Examiner is relying on the copyright date, it is noted that many of the pages have a copyright date after the priority date of the present application and accordingly, those pages are not available as references either. Since the Examiner has relied upon the URL to list the reference, the most appropriate date for such a listing would be the date that it was printed, that is,

November 8, 2001, which is after the priority date. For these reasons, Applicant submits that the art rejections are not tenable due to the date of the reference. Accordingly, Applicant submits that these rejections are overcome.

The Examiner relies upon the aquarium reference to show a structure having wall and roof structures, which define an interior space with the climate in each separate space being separately regulated. The Examiner has referred to page 22 to show wall B and Roof A, but it is not clear what the interior space is intended to be. The Examiner states that the climate in each separate space is separately regulated, and depends on page 4 to show this. However, it should be noted that the description on page 22, refers to the Marine Mammal Pavilion which includes the auditorium for dolphin shows, but none of the other live exhibits. Accordingly, the description on page 4 describing puffins in cold seas, and other environments do not apply to this building, but rather to the main building shown in part on page 21. Further, page 4 makes it clear that even if the sea creatures are in differently heated water, the air in which the people are present stays to 72°. Further, it is not clear from page 22 where the separate spaces are located in this building. While the building forms an exhibition hall there are no separate spaces separated from the ambient air within the structure.

Furthermore, claim 1 has now been amended to make it clear that the separate spaces are for human activities, with a climate in each space being separately regulated. This differs from the cited pages of the aquarium reference where there are no separate spaces, where the climate is the same for people, and where the spaces are not for human activities. Accordingly, Applicant submits that this rejection is overcome. Regarding claim 2, the Examiner again recites pages 1-4 and 22. However, as pointed out above, the exhibits described on pages 1 and 2 are in a different building from that shown on page 22. Accordingly, the Examiner's argument in this regard is inapplicable. Further, there is no showing that activities in the separate spaces are arranged to constitute different

functional groups. In the present application, functional groups relate to the different climates so that, for example, colder air activities can be connected together.

In regard to claim 3, the Examiner relies on page 22 to show Nordic areas. However, as mentioned above, the marine and mammal pavilion has only one live exhibit, that is the dolphin pool, which according to page 4, is in 75° water, and 72° air. This does not seem to be a Nordic area.

In regard to claim 5, the Examiner points out separate space D on page 21. First, the structure shown on page 21 is a separate building from that on page 22. Secondly, the space D, the seal pool, is completely outside the building shown in page 21. This contradicts the limitation of claim 5, that the separate space is arranged in the unitarian interior space.

In regard to claim 9, the Examiner refers to the outdoor climate of Baltimore and the separate climate controlled spaces described on page 4. As pointed out above, the different areas on page 4 relate to the building shown on page 21. Further, claim 9 deals with the climate conditions inside the various spaces and does not deal with the outdoor climate that the building is in. Further, the indoor climate is regulated so that human activities corresponding to that climate can be performed. This is not shown in any fashion in the reference.

For these reasons, Applicant submits that claims 1-3, 5, 6, and 9 are not anticipated by the Aquarium reference. Furthermore, Applicant submits that the remaining claims 4, 7, 8, and 10-12 are similarly not obvious over this reference.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner. In view of this, reconsideration of the rejections and allowance of all the claims is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mr. Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a two (2) month extension of time for filing a response in connection with the present application and the required fee of \$200.00 is being filed concurrently herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 1, 2, 4, 7, 9 and 12 have been amended as follows:

1. (Amended) A spatial structure (1, 1a) arranged especially for spending of leisure, said structure comprising wall and, correspondingly, roof structures (2, 3) which define one or several interior space(s) (6) separated from the ambient open-air, characterized in that several at least partially closed separate spaces (7 to 16b, 23) for human activities are arranged in an [essentially] unitary interior space (6), or in immediate connection thereto, wherein the climate in each separate space (7 to 16, 2) can be separately regulated in accordance with mutually differing conditions.

2. (Amended) A structure as defined in claim 1, characterized in that in said at least partially closed separate spaces (7 to 16b, 23) is arranged [such] activities, which, respectively, constitute different functional groups [and suitably are mutually connected by the special climatologic temperature in the respective separate space (7 to 16b, 23), favorably so that they can be at least partially observed also from outside said separate space (7 to 16b, 23) though a transparent wall (18)].

4. (Twice Amended) A structure as defined in claim 1, characterized in that one or several refrigerating and/or heating apparatus (es) is (are) arranged for the temperature regulation of different spaces, said apparatus being common for several partially closed separate spaces (7 to 16b, 23) or a corresponding space connected to said structure[, favorably so that the excess heat which is

generated during the refrigeration of a space (7, 11 to 16, 23) adapted for arctic and/or winter activities or functions can be conducted for the heating of a separate space (5, 9) arranged for tropical and/or summer activities or functions].

7. (Twice Amended) A structure as defined in claim 1, characterized in that separate spaces for describing at least winter (7) and summer (9)[, suitably additionally spring (8) and autumn (10)] are arranged in said interior space (6), favorably so that the temperatures in said spaces are adapted mutually to change in accordance with the yearly seasonal rhythm of nature or in a rhythm which differs therefrom in a desired manner.

9. (Amended) A method for presenting different climate conditions and especially activities related to the cold season of the year, characterized in that the temperature in functionally interconnected essentially closed separate spaces (7 to 16b, 23) is separately regulated to correspond to the appropriate climate so that human activities or functions corresponding to a respective climate condition are brought to implementation in a space which suitably has the mean temperature of the respective climate.

12. (Amended) A pool structure containing water, characterized in that said pool (14) is arranged in an essentially closed space (12) so that an artificial ice cover can be formed thereon by one or several refrigerating machineries, which ice cover comprises holes for such winter activities as winter swimming and/or winter fishing, or in which ice cover such holes can be made.

New claims 13-15 have been added.